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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

LAURA LOOMER,

Plaintiff,

v.

FACEBOOK, INC.,

Defendant.

Case No. 4:20-cv-03154-HSG

**MOTION TO MODIFY ORDER SETTING
CASE MANAGEMENT CONFERENCE
FOR REASSIGNED CIVIL CASE**

Defendant Facebook, Inc. respectfully moves the Court under Civil Local Rule 16-2(d) for an order scheduling the initial case management conference to occur within the next 30 days, instead of on August 25, 2020—as currently set forth in the Order Setting Case Management Conference for Reassigned Civil Case (ECF No. 66).

In support, Facebook states as follows:

1. On July 8, 2019, Plaintiff Laura Loomer filed this action in the United States District Court for the Southern District of Florida. *See* ECF No. 1.

2. On August 30, 2019, that Court entered its Order Setting Civil Trial Date, Pretrial Deadlines, and Referral to Magistrate Judge (ECF No. 21), which set trial for October 2020 and required the parties to complete fact discovery by February 24, 2020 and to file all dispositive motions by April 10, 2020. *See id.* at 2.

3. On September 16, 2019, Facebook filed a motion to transfer venue under 28 U.S.C. § 1404(a) (ECF No. 24) and a motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) (ECF No. 25). The motion dismiss remains pending.

4. The discovery period closed February 24, 2020. Ms. Loomer—who had failed to take any discovery¹—filed a motion to extend the discovery deadline by 91 days. *See* ECF No. 39. On February 28, 2020, the Court denied that motion, finding that: “Plaintiff has failed to establish good cause for extending the discovery deadline.” ECF No. 43.²

5. On April 10, 2020, Facebook filed a motion for summary judgement (ECF No. 54). This motion remains pending. Ms. Loomer did not file any dispositive motions.

¹ Ms. Loomer never served any discovery requests during the approximate seven-month discovery period. Nor did she notice any depositions within the required time frame under the Southern District of Florida’s Local Rules.

² Approximately nine hours after the Court denied her request for an extension of discovery, Ms. Loomer filed a nearly identical complaint against Facebook in Florida state court. *See Loomer v. Facebook, Inc.*, Case No. 50-2020-CA-002352-XXXX-MB (Fla. 15th Cir. Ct. 2020) (“*Loomer II*”). Facebook removed *Loomer II* to federal court and marked it as related to the original case. *See Loomer v. Facebook, Inc.*, No. 9:20-cv-80484-RS (S.D. Fla. 2020), ECF Nos. 1, 4. Ms. Loomer at first attempted to remand *Loomer II* to state court, but eventually voluntarily dismissed the case. *See id.*, ECF Nos. 8, 20.

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6. On April 13, 2020, the Court granted Facebook's motion to transfer the case to this Court, under 28 U.S.C. § 1404(a). *See* ECF No. 56.

7. On May 20, 2020, this Court entered the Case Management Order, scheduling the Initial Case Management Conference for August 25, 2020. *See* ECF No. 66.

8. "Civil Local Rule 16-2(d) provides that a party may, by motion, seek relief from an obligation imposed by . . . the Order Setting Initial Case Management Conference . . . [if the] motion . . . describe[s] the circumstances which support the request." *Traverso v. Clear Channel Outdoor Inc.*, No. C07-03629 MJJ, 2007 WL 3151449, at *1 (N.D. Cal. Oct. 26, 2007).

9. The parties long ago exchanged initial disclosures, discovery has closed, and Facebook's motions to dismiss and for summary judgment remain pending. Given the case's advanced stage, Facebook respectfully suggests that the case would benefit from an earlier Initial Case Management Conference so that the Court can set a schedule for the completion of summary judgment briefing and pre-trial proceedings. Accordingly, Facebook requests that the Court schedule the Initial Case Management Conference within the next 30 days.

10. In accordance with Local Rule 16-2(d)(2), Facebook's counsel has conferred with Ms. Loomer's counsel in an effort to reach agreement about this matter. Ms. Loomer's counsel does not oppose Facebook's request for an earlier conference, but requests that the conference not occur within the next two weeks.

Dated: May 22, 2020

Respectfully submitted,

DAVIS WRIGHT TREMAINE LLP

By:

/s/ Thomas R. Burke

Thomas R. Burke

Attorney for Defendant Facebook, Inc.